

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'E': NEW DELHI**

**BEFORE,
SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER
AND
SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER**

**ITA No.661/Del/2022
(ASSESSMENT YEAR 2015-16)**

Mani Prakash H.No.467 Mundka Village New Delhi-110 041 PAN-AQKPP 5281E (Appellant)	Vs.	Income Tax Officer Ward-42(1) New Delhi (Respondent)
--	-----	--

Appellant by	Mr. Neeraj Jain and Mr. P.K. Mishra, CAs
Respondent by	Mr. Jitender Chand, Senior Departmental Representative ("Sr. DR", for short)

ORDER

PER ANADEE NATH MISSHRA, AM:

(A) This appeal by Assessee is filed against the order of Learned Commissioner of Income Tax (Appeals)-43, New Delhi ["Ld. CIT(A)", for short], dated 03/03/2020 for Assessment Year 2015-16.

Grounds taken in this appeal are as under:

"1. That the order of learned Commissioner of Income Tax (Appeals) is bad in law as well as on the facts and in the circumstances of the case.

2. *That the ld. CIT(Appeals) has erred in ignoring the evidences and arguments furnished by the appellant in the assessment proceedings which inter-alia included a revised computation of total income, cash flow statement, bank statement etc.*

3. *That the ld. CIT(Appeals) has erred in rejecting the claim of the appellant that he is a contractor and is subject to taxation of income from business u/s 44AD of the I.T. Act.*

4. *That the ld. CIT(Appeals) has erred in confirming the addition of Rs.92,01,000/- made by the Assessing Officer by treating the said amount unexplained under provisions of section 69A of the Act.*

5. *The above grounds of appeal are without prejudice to each other.*

6. *The Appellant craves leave to add, alter, amend and/or modify the above grounds of appeal.”*

(B) In this case, the assessment order dated 30/12/2017 was passed by Assessing Officer (“AO”, for short) u/s 143(3) of Income Tax Act wherein the assessee income was assessed at Rs.1,15,59,118/- (rounded off to Rs.1,15,59,120/-). The assessee’s appeal against the aforesaid assessment order dated 30/12/2017 was dismissed by Ld. CIT(A) vide impugned appellate order 03/03/2020. Aggrieved, the assessee has filed this present appeal in Income Tax Appellate Tribunal (“ITAT”, for short). In the course of appellate proceedings in Income Tax Appellate Tribunal, a paper book containing the following particulars was filed from the assessee’s side:

Sl. No.	Particulars
1.	Submissions filed before Ld. CIT(A) dated 13.09.2018 along with enclosures: a) Assessment order of Omwati AY 2015-16 b) Assessment order of Arti AY 2015-16 c) Assessment order of Mani Prakash LH of late Lakhi Ram AY 2010-11
2.	Notice u/s 142(1) issued by AO dated 16.10.2017
3.	Letter filed before AO dated 13.11.2017 along with enclosures: a. Revised computation of income for AY 2015-16
4.	Show Cause notice u/s 142(1) issued by AO dated 13
5.	Letter filed before AO dated 27 11 2017
6.	Letter filed before AO dated 06.12.2017 along with enclosures: i. Confirmation regarding bank accounts ii. Bank account copy of Mrs. Singaro Devi (mother of the appellant) iii. Copy of PAN card of Renu Shokeen iv. Copy of cheque received from Renu Shokeen
7.	Letter filed before AO dated 06.12.2017 along with enclosures: a. Copy of passbook of PPF account b. Copy of sample bills
8.	Cash flow filed before AO
9.	Copy of return filed in response to notice u/s 139(9) dated 27.09.2015 for Assessment year 2015-16 also an original return.
10.	Copy of original return filed dated 01.08.2015 for Assessment year 2015-16.
11.	Copy of Form 26AS.

(B.1) The central issue in the present appeal before us is regarding the addition of Rs.92,01,000/-. The assessee claimed this amount partly (Rs.15,00,000/-) as loan from Ms Renu Shokeen, and partly as the business receipts from the business of Contractor. However, the AO added the aforesaid amount of Rs.92,01,000/- as

unexplained income under the provisions of section 69A of Income Tax Act.

(B.2) At the time of hearing before us, the representative of both sides, the Ld. Authorized Representative for assessee as well as the Ld. Sr. DR for Revenue made oral submissions. The Ld. Authorized Representative for the appellant assessee submitted that the Assessing Officer and the Ld. CIT(A) ignored the evidences and arguments furnished by the assessee. He took us through the aforesaid paper book [referred to in foregoing paragraph (B) of this order] in support of his contention that evidences and arguments furnished by the assessee were ignored and not considered by the AO and by the Ld. CIT(A). He submitted that the impugned appellate order dated 03/03/2020 of the Ld. CIT(A) should be set aside and the issues in dispute should be restored to the file of the Assessing Officer with the direction to pass fresh assessment order in accordance with law after providing reasonable opportunity to the assessee. The Ld. Sr. DR for Revenue was in agreement with this.

(B.2.1) In view of the foregoing, in the specific facts and circumstances of the present appeal before us, and as

representatives of both sides are agreement with this, we set aside the impugned appellate order dated 03/03/2020 of the Ld. CIT(A) and restore all the issues in dispute to the file of the Assessing Officer with the direction to pass a *denovo* order in accordance with law after providing reasonable opportunity to the assessee. All grounds of appeal are treated as disposed off in accordance with aforesaid directions.

(C) For statistical purposes, this appeal is treated as partly allowed.

This order was orally pronounced in Open Court on 02/03/2023 in the presence of representatives of both sides, after conclusion of the hearing and is signed today on 02/03/2023.

Sd/-
(CHALLA NAGENDRA PRASAD) (ANADEE NATH MISSHRA)
JUDICIAL MEMBER ACCOUNTANT MEMBER

Dated:02/03/2023

Pk

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT, NEW DELHI